

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 351 - SB 539**

March 2, 2009

**SUMMARY OF BILL:** Creates new Class E felony offenses for knowingly assaulting a law enforcement officer and for removing a chemical weapon or handcuffs from a law enforcement officer. Creates a new Class D felony offense for removing a firearm or stun weapon from a law enforcement officer. Creates a new Class B felony offense for aggravated assault on a law enforcement officer.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$3,963,500/Incarceration\***

**Decrease Local Revenue – Less than \$100,000**

**Decrease Local Expenditures – Exceeds \$100,000**

**Assumptions:**

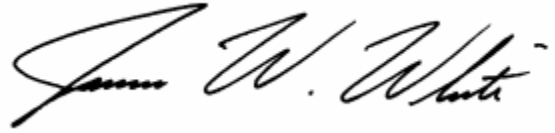
- Simple assault is currently punishable as a Class A or Class B misdemeanor. Aggravated assault is currently punishable as a Class C or Class D felony.
- According to data published by the Tennessee Bureau of Investigation, there has been an average of 1,611 simple assaults and 826 aggravated assaults per year for each of the past four years on law enforcement officers. The Department of Correction (DOC) estimates approximately five percent ( $1,611 \times 0.5\% = 80.55$ ) will be convicted of a Class E felony for assaulting a law enforcement officer in the first year who would have been convicted of Class A or B misdemeanors.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in an additional nine offenders charged with a Class E felony in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 90 offenders.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80.

- According to the Department, the average post-conviction time served for a Class E felony is 1.63 years; 2.43 years for a Class D felony; 3.59 years for a Class C felony; and 6.17 years for a Class B felony. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days). The cost per offender at 3.59 years is \$78,426.50 (\$59.80 x 1,311.48 days). The cost per offender at 6.17 years is \$134,727.00 (\$59.80 x 2,252.96 days).
- The total additional operating cost for 90 offenders in the tenth year is \$3,199,329.90 (\$35,548.11 x 90).
- DOC estimates one person per year will be convicted of the new Class E felony for removing a chemical weapon or handcuffs from a law enforcement officer at a cost of \$35,548.11.
- DOC estimates one person per year will be convicted of the new Class D felony for removing a firearm or stun weapon from a law enforcement officer at a cost of \$52,995.96.
- Due to the small number of offenders, no recidivism discount has been applied for these Class E and Class D felony offenses.
- DOC estimates two percent (17) of the offenders convicted of aggravated assault on law enforcement officers would be convicted of a Class B felony. Population growth would result in an additional two offenders in the tenth year.
- According to the Department, 35 percent of offenders will re-offend within two years of their release. A recidivism discount of 35 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (19 offenders x 35% recidivism discount = 6.65 offenders).
- This bill will result in a person convicted of aggravated assault on a law enforcement officer serving an additional 2.58 years (an increase from 3.59 years to 6.17 years). The additional cost of increasing the average sentence length is \$56,300.50 (\$134,727.00 - \$78,426.50). The maximum cost is based on 12 (19-7) offenders serving additional time on their sentences in the tenth year. The total additional operating cost for 12 offenders in the tenth year is \$675,606 (\$56,300.50 x 12).
- Local government will have a decrease in expenditures and revenue associated with misdemeanor offenses that will be elevated to felony offenses under this bill.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized "J" and "W".

James W. White, Executive Director

/lsc